

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LOUIS M. GERSON COMPANY, INC.,

Civil No. 04-12389 (MLW/RBC)

Plaintiff,

v.

3M COMPANY,

Defendant.

**3M COMPANY'S COVENANT NOT TO
SUE PLAINTIFF FOR INFRINGEMENT
OF THE '441 PATENT AS IT
PRESENTLY READS FOR PRODUCTS
MADE, USED, MARKETING, OFFERED
FOR SALE, OR SOLD ON OR BEFORE
THE DATE OF THIS COVENANT**

3M Company, its successors and assigns, hereby covenants not to assert any claim of patent infringement against Louis M. Gerson Company, Inc. or its customers under United States Patent No. 6,595,441 (the '441 patent) as it presently reads, with respect to any product currently made, used, marketed, offered for sale, or sold by the Louis M. Gerson Company, Inc., or any product which was made, used, marketed, offered for sale, or sold by the Louis M. Gerson Company, Inc. prior to the date of this declaration.

This covenant is limited to the '441 patent as it presently reads and does not apply to any other patent, whether related or unrelated to the '441 patent.

By its attorneys

Dated: November 23, 2004

/s/Frank E. Scherkenbach
Frank E. Scherkenbach (BBO #653819)
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110

Attorneys for Defendant
3M COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing 3M COMPANY'S COVENANT NOT TO SUE PLAINTIFF FOR INFRINGEMENT OF THE '441 PATENT AS IT PRESENTLY READS FOR PRODUCTS MADE, USED, MARKETING, OFFERED FOR SALE, OR SOLD ON OR BEFORE THE DATE OF THIS COVENANT was served on counsel for Plaintiff

regular mail on Robert L. Kann, Bromberg & Sunstein LLP, 125 Summer Street, Boston, MA 02110 on this 23rd day of November, 2004.

/s/Kathleen J. Tobin

Kathleen J. Tobin